Arraignment on topless charges bears signs of 1986

By Laura Buterbaugh
Democrat and Chronicle

There was a sense of *deja vu* yesterday as eight women stood before City Court Judge John Manning Regan to fight for the right to bare breasts.

The courtroom, the cluster of media cameras and the women, heads held high — all were a carbon copy of a legal battle three years ago that gained national attention.

The women were arraigned yesterday after being arrested Saturday on a Durand Eastman Park beach when they refused to wear shirts. All pleaded not guilty, opening the door for another drive to change state law.

"It's a struggle for equal rights," said Mary Lou Schloss, spokeswoman for the Coalition for Topfree Equality and one of the women arrested. "The women involved are concerned about the discriminatory system."

The group will appear before Regan again Aug. 1 for a pre-trial conference.

In 1986, seven women — some of them who also are involved in this year's fight — were arrested when they refused to wear shirts during a picnic at Cobbs Hill Park. They made national headlines and some appeared on the *Donahue* TV talk show.

After a weeklong trial, City Court Judge Herman J. Walz dismissed the charges, ruling the arrests violated the women's rights to free speech. But he upheld the state law regarding public nudity, and his decision is not binding on other judges.

In 1987 and 1988, no one was arrested at the annual picnics.

This year the group hasn't worked out the details of its defense. But free speech won't be a part of it, Schloss said. "It confused the issue too much the first time," she said outside court.

The women each were charged Saturday with exposure of a person, a violation that carries a maximum penalty of 30 days in jail and a $500 fine. They have been released from custody without bail.

No one expected to be arrested, so this year wasn't a plan to force the issue back into court, Schloss said.

The courtroom yesterday was crowded with media, spectators and people waiting to be arraigned. It erupted in laughter when one woman pleaded "innocent" and Regan replied, "It's either guilty or not guilty. No one is innocent."

Kathie Reilly of Rochester carried a small hand-printed sign that read "The struggle for human rights continues in the hometown of Susan B. Anthony."

Besides entering pleas, some of the women also read a written statement asking Regan to dismiss the charges on grounds the state law against exposure violates the state and federal constitutions.

Regan reserved decision on those requests. As the women left the courtroom, Regan told them to "have a nice day."

Tierney O'Brien-Dovan said she will fight the charges on another level. Because the state law exempts women who are nursing children, she says she shouldn't have been arrested as she was nursing her daughter, Grace, on the beach.

The women who entered pleas yesterday are: Lyn Gallo of Ithaca; Susan David of Rochester; Nina Leibowitz of Brighton; Marilyn Hiller of Brevard, N.C.; Schloss, Reilly and Sarah Wells, all of Rochester; and O'Brien-Dovan of Pittsford.

Ramona Santorelli and Gail Niesner, both of Rochester, are scheduled to appear today on the exposure charges before Regan. They missed yesterday's court date because their car broke down and left them stranded in New York City over the weekend.